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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,794	10/18/2005	Yoshiharu Dewa	279606US6XPCT	6105
22850	7590	02/04/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER HUSSAIN, IMAD	
			ART UNIT	PAPER NUMBER
			4117	
			NOTIFICATION DATE	DELIVERY MODE
			02/04/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/553,794	<b>Applicant(s)</b> DEWA ET AL.	
	<b>Examiner</b> IMAD HUSSAIN	<b>Art Unit</b> 4117	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. This communication is in response to Applicant's reply filed under 3 CFR 1.111 on 12 December 2007. Claim 1 was cancelled. Claims 2-8 were amended. Claims 9-11 are new. Claims 2-11 are pending.

2. Amendment to the specifications in response to objection has been considered. The amendment to the specifications obviates previously raised objection. As such, this objection is hereby withdrawn.

3. Amendment to claim(s) 2-8 in response to objection has been considered. The amendment to the claims obviates previously raised rejection. As such this objection is hereby withdrawn.

4. Cancellation of claim 1 in response to preliminary double patenting objection has been considered. The cancellation obviates previously raised rejection. As such this objection is hereby withdrawn.

5. Amendment to claims 2-8 in response to rejection under 35 USC 102(b) has been considered. The amendment to the claims obviates previously raised rejection. As such this rejection is hereby withdrawn.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agresta et al. (US PGPub 20020091848 A1, hereafter Agresta) in view of Hegde et al. (US PGPub 20020007418, hereinafter Hegde).

Regarding claim 2, Agresta teaches *a content delivery method for delivering content from a content delivery apparatus [Fig 2 (20)] to a content processing apparatus [Fig 2 (12)] by way of a network [Fig 2 (22)], the system comprising:*

*presenting a list of a plurality of sets of content including at least a set of content to be delivered by streaming and a set of content to be delivered by downloaded files at a content processing apparatus* ["The user will have the option of 'streaming' the selection to the terminal for instant access and simultaneous playing, or downloading the selection onto the memory of the terminal", paragraph 25];

*inputting specifying information specifying the set of content, from the sets of content on the list, to be delivered to content processing apparatus from the content delivery apparatus* ["permitting the subscriber to select and purchase desired entertainment content from the menu", claim 10]; *and*

*acquiring by the contents processing apparatus the set of content delivered from the content delivery apparatus according to delivery information specifying the set of content as one to be delivered by streaming or one to be delivered by downloaded files, the delivery information [“the central database”, paragraph 22, and user selection, claim 10] being provided by the content delivery apparatus by way of the network [“permitting the subscriber to access and download to the terminal any purchased entertainment content on the subscriber's content list” per the user selection, claim 10].*

Agresta does not teach ***automatically acquiring by the contents processing apparatus, without receiving an input selecting streaming or downloaded file as method of content delivery.***

However, Hegde discloses a method of automatically selecting between streaming or downloading, in full, multimedia content based on the attributes of the requesting device and the size of the content [Hegde: Paragraph 0084; also Claims 1, 3 and 4].

Agresta and Hegde are analogous art in the same field of endeavor as both concern delivering multimedia content from a server to a requesting terminal over a network.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the protocol selection scheme of Hegde for automatic attribute-based delivery selection in the system of Agresta. One of ordinary skill in the art would have been motivated to modify the system of Agresta with the protocol selection scheme of Hegde because in doing so, the system would allow for users

having low-bandwidth connections to obtain better multimedia experiences optimized for their devices [Hegde: Paragraph 0006 and 0009].

Regarding claim 3, Agresta-Hegde teaches *a content processing apparatus adapted to receive deliveries of content from a content delivery apparatus [Fig 2 (20)] to a content processing apparatus [Fig 2 (12)] by way of a network [Fig 2 (22)], the system comprising:*

*presentation means* [Agresta: “a web-site”, paragraph 0052, which is displayed on “the screens on the device”, paragraph 0049] *for presenting a list of a plurality of sets of content including at least a set of content to be delivered by streaming and a set of content to be delivered by downloaded files at a content processing apparatus* [Agresta: “The user will have the option of ‘streaming’ the selection to the terminal for instant access and simultaneous playing, or downloading the selection onto the memory of the terminal”, paragraph 25];

*input means* [Agresta: “means for permitting the subscriber to input commands”, Claim 1 and “menu”, Claim 10] *for inputting specifying information specifying the set of content, from the sets of content on the list, to be delivered to content processing apparatus from the content delivery apparatus* [Agresta: “permitting the subscriber to select and purchase desired entertainment content from the menu”, claim 10]; *and*

*acquisition means* [Agresta: “Terminal... uses a high-speed wireless Internet Connection to... stream the selection(s) [or] download the full selection(s)”, paragraph 0055] *for automatically* [Hegde: Paragraph 0084; also Claims 1, 3 and 4] *acquiring by*

*the contents processing apparatus the set of content delivered from the content delivery apparatus by way of a network without selecting streaming or downloaded file as method of content delivery* [Hegde: Paragraph 0084; also Claims 1, 3 and 4] *according to delivery information specifying the set of content as one to be delivered by streaming or one to be delivered by downloaded files, the delivery information* [Agresta: “the central database”, paragraph 22, and user selection, claim 10] *being provided by the content delivery apparatus by way of the network* [Agresta: “permitting the subscriber to access and download to the terminal any purchased entertainment content on the subscriber's content list” per the user selection, claim 10].

Regarding claim 4, Agresta-Hegde teaches that *the delivery information is correlated with the license of the sets of contents* [Agresta: “encryption/coding module 28 comprises a public/private key encryption methodology/technology to encrypt requested data prior to transmission to prevent unauthorized access, copying and use of the data”, paragraph 42].

Regarding claim 5, Agresta-Hegde teaches that *the delivery information further includes information for accessing the sets of contents* [Agresta: “GUID”, paragraph 42].

Regarding claim 6, the claim recites the steps of the method of claim 2 from the perspective of the reception apparatus instead of the delivery apparatus. As such, the same rationale of rejection is applicable.

Regarding claim 7, the claim recites the program stored on a recording medium for performing the method of claim 2. As such, the same rationale of rejection is applicable.

Regarding claim 8, the claim comprises the same limitations as claim 2. The same rationale of rejection is applicable.

Regarding claim 9, the claim recites substantially the same limitations as claim 2, for which the same rationale of rejection apply, with the addition of a display, an interface, and an acquisition unit.

Agresta-Hegde teaches said *display* [Agresta: "a web-site", paragraph 0052, which is displayed on "the screens on the device", paragraph 0049], *interface* [Agresta: "means for permitting the subscriber to input commands", Claim 1 and "human interface", paragraph 0050] and *acquisition unit* [Agresta: "Terminal... uses a high-speed wireless Internet Connection to... stream the selection(s) [or] download the full selection(s)", paragraph 0055 which may utilize "a wireless card such as a PCI card or PCMCIA card", paragraph 0056].

Regarding claim 10, the claim comprises the limitations of claims 9 and 4. The same rationale for rejection is applicable.

Regarding claim 11, the claim comprises the limitations of claims 9 and 5. The same rationale for rejection is applicable.



***Response to Arguments***

7. Applicant's arguments, see pages 10-11, filed 12 December 2007, with respect to the rejection(s) of claim(s) 2-8 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection necessitated by applicant's amendment is made in view of new prior art as discussed above.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form (see 1.113). If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of: (c) A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, *new arguments*, or *new evidence in support of patentability*. If reply to an Office action under 35 USC 132 is outstanding, the submission must meet the reply requirements of § 1.111 (see MPEP 706.07).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IMAD HUSSAIN whose telephone number is (571)270-3628. The examiner can normally be reached on Monday through Thursday from 0730 to 1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beatriz Prieto can be reached on 571-272-3902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4117

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/IH/  
Imad Hussain  
Examiner

/Prieto, Beatriz/

Supervisory Patent Examiner, Art Unit 4117